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Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Philippines must effectively implement its legislation on torture and other ill-treatment

Impunity for torture and other ill-treatment remains a critical human rights problem in the Philippines. Despite pronouncements by the government to address this issue, justice continues to be out of reach for victims, and no perpetrator has been fully held to account.

The Philippine government has acknowledged the problem. In its state report to the Human Rights Council during the second cycle Universal Periodic Review, Philippine authorities highlighted efforts to establish a National Monitoring Mechanism "that will bring together Government agencies, civil society organizations and the Commission on Human Rights in a credible and inclusive forum for monitoring the nation's progress in resolving... torture, thereby ending impunity."[1] Two years after, there has been little progress on the National Monitoring Mechanism. Further, monitoring is only one component of enhancing accountability and does not fully address the problem of impunity.

Torture in the Philippines

Torture is prohibited in the Philippines. The Constitution prohibits the use of torture and other ill-treatment and the Revised Penal Code criminalizes all acts of torture with corresponding penalties. The Philippines ratified the UN Convention on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1986, and its Optional Protocol in 2012, albeit with a declaration postponing visits by the Subcommittee on Prevention for three years. The Philippines enacted the Anti-Torture Act in 2009 which prescribes criminal penalties, including life imprisonment, for torture and other ill-treatment. However, torture is rife and in many cases routinely used in the Philippines. Despite the introduction of legislative safeguards, state security forces and law enforcement officers continue to practice or be complicit in torture.

The January 2014 discovery of a secret detention facility where police officers physically abused detainees for "fun" demonstrates a law enforcement culture in which some police officers casually commit routine torture with impunity. Police officers spun a wheel to decide torture positions or acts of torture to inflict on detainees.

The Commission on Human Rights (CHR) in the Philippines exposed this unrecorded Philippine National Police (PNP) detention facility located in a residential neighbourhood in Laguna province. Over 40 detainees, some of whom still had bruises and other torture marks on their body when CHR representatives came, accused at least 10 police officers of torture, ill-treatment and extortion. The detainees also complained that 'drinking sprees' by the police officers led to further incidents of torture and other ill-treatment in the detention facility. The CHR reported that the detention cell within the police facility was not in the PNP's legally-required updated list of all its detention facilities, in violation of Section 7 of the Philippines' Anti-Torture Act of 2009.

This incident belies earlier declarations made by the Philippine government in its 2012 state report in the Universal Periodic Review that it has put in place "[i]nstitutional measures... to prevent torture and other human rights violations... inspection of police stations with custodial facilities... [and] the institutionalization of salient features of the Anti-Torture Act, including the principles of command responsibility, prohibition of places where torture may be done with impunity... and inadmissibility of evidence obtained through torture."[2]

The PNP has since stated that the police officers implicated in the complaint were undergoing internal investigations and could face dismissal from service. Two other police officers with command responsibility over the 10 were relieved of their duty. While recognizing the investigation effort of police, Amnesty International maintains that internal disciplinary proceedings against police officers accused of criminal offences which involve human rights violations such as torture is not enough. Administrative sanctions are not sufficient to punish acts which are criminal under

[1] Human Rights Council. A/HRC/WG.6/13/PHL/1. Paragraph 49.
[2] Ibid. Paragraph 56.

Philippine law, and which constitute crimes under international law. Perpetrators of torture must be held accountable in a court of law. In all its statements, the PNP failed to mention prosecution of police officers, despite its Internal Affairs Service being legally-mandated to file criminal charges against erring officers.[3] By prosecuting offending police officers, the PNP will send a clear signal that it does not tolerate torture. Crucially, it will demonstrate that the PNP regards its ranks as not above the law and will not hesitate to hold accountable erring police officers to the fullest extent of the law. It is also the duty of the Philippines authorities to ensure that victims of human rights violations have access to remedy under the International Covenant on Civil and Political Rights to which the Philippines is a state party. It includes ensuring that victims and their families have access to justice, truth and reparations about what happened to them,

The Laguna torture for "fun" case led to immediate action by the PNP largely because of high media coverage. However, most instances of torture and other ill-treatment in the Philippines are unreported.

Amnesty International's research has found that many victims of torture and other ill-treatment are common criminal suspects and repeat offenders, including juvenile offenders. So-called police 'assets' – informal police auxiliaries handpicked by police officers for covert operations in exchange for a fee – who fall out of the police's favours are also known to have been arrested, tortured and sometimes extrajudicially executed by police officers in what has been known in the Philippines as 'salvage operations'.

Women, including female police 'assets' and workers in the sex industry are also at risk of human rights violations, including torture and other ill-treatment.

Ordinary people and political activists suspected of sympathizing with the Moro Islamic Liberation Front or the New Peoples' Army are similarly at risk of torture. This is exacerbated by the participation of police officers in military's counterinsurgency and counterterrorism operations. Executive Order 546 (2006) has led to this practice, blurring the line between military and law enforcement functions.

Torture victims - most of whom come from disadvantaged backgrounds - are reluctant to come forward and file a complaint due to fear of reprisals and lack of confidence that torture perpetrators will be brought to justice.

Many torture victims interviewed by Amnesty International are still in government custody in jails or prisons. They fear that despite safeguards on paper, police or military who are responsible for the serious human rights violations which happened to them would still be able to access them. In one case, Amnesty International learned of a high ranking military officer gaining access into a prison and beating up a detainee.

Worse than the fear for their own safety, survivors of torture fear reprisals against members of their family if they speak out about what happened to them or if they make a complaint, as the identity of their loved ones may become known to their perpetrators during jail visits or court hearings.

Compounding the situation is the lack of knowledge on the part of the victims as to where to go to seek justice and accountability for the torture they have experienced in the hands of the state. In the majority of cases that Amnesty International researched, victims did not know where to lodge their complaint. It does not help that most of the accountability mechanisms in place have overlapping jurisdictions, causing confusion.

Impunity for torture

While there have been sanctions against some perpetrators of torture in high profile cases, no one has been convicted for torture, five years after the Anti-Torture Act was enacted.

[3] Republic Act No. 8551, sec. 39(e).

The efficiency, effectiveness and integrity of investigations continue to be in question. The situation of the criminal justice system in the Philippines is such that often criminal cases, including those which involving human rights violations, do not go beyond the preliminary investigation stage. Moreover, the lack of forensics capacity and dependency on testimonial evidence has led to the use of torture as part of 'standard' investigations'. Prosecutions proceed slowly, and courts are beset with several years' worth of case backlog.

The Philippine government was due to submit its third periodic report to the Committee Against Torture in May 2013, but it has not yet done so. In its Concluding Observations on the Philippines in 2009, the Committee against Torture expressed its "deep concern" about the widespread use of torture and "that credible allegations of torture and/or ill-treatment committed by law enforcement and military services personnel are seldom investigated and prosecuted and that perpetrators are either rarely convicted or sentenced to lenient penalties that are not in accordance with the grave nature of their crimes."[4] The Committee stated that there was a "climate of impunity for perpetrators of acts of torture."[5]

Amnesty International urges the members and observers of the Human Rights Council to:

- Acknowledge the serious problem of impunity for torture and other ill-treatment of ordinary criminal suspects and other detainees in the Philippines ;
- Call upon the Philippine government to promptly submit its report to the Committee Against Torture;
- Call upon the Philippines to issue an invitation to the Special Rapporteur on Torture to independently verify the gains and gaps in law and practice with regard to torture and other ill-treatment in the Philippines;
- Call upon the Philippine government to withdraw its reservations from the Optional Protocol to the UN Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment;
- Call for the full implementation of accepted Universal Periodic Review recommendations and commitments and provide an interim report to the Council on such implementation, particularly on torture;
- Call upon the Philippine authorities to ensure prompt, thorough and effective investigations into all reports of torture and other ill-treatment by law enforcement agents, ensuring that suspected perpetrators, including persons with command responsibility, are prosecuted in proceedings which meet international standards of fairness, and that victims are provided full reparations;
- Call upon the Philippine authorities to ensure that a clear, independent and impartial system is in place to address complaints about suspected human rights violations by police officers. In particular, suspected criminal offences involving human rights violations must be dealt with through the criminal justice system.

[4] CAT/C/PHL/CO/2, paragraph 9.
[5] Ibid.